

# Notice of Allowability

Application No.

10/656,893

Examiner

Matthew J. Daniels

Applicant(s)

SIMMONS ET AL.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment received 7 June 2007.
2. ☒ The allowed claim(s) is/are 13, 15-17 and 19-31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date Paper No. 20070913.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Gregory T. Gronholm on 19 October 2007.

3. The application has been amended as follows:

In Claim 13, line 5, after "surface" inserted --when later installed--.

In Claim 13, line 15, after "tile shape" inserted --while in said mold--.

In Claim 15, line 3, after "providing a first tile shape" inserted --without a separation channel--

In Claim 15, line 10, after "tile shape" inserted --while in said mold--.

In Claim 15, line 13, after "supporting surface" inserted --when later installed--.

In Claim 15, line 14, replaced "support" with --supporting--.

In Claim 16, line 1, deleted "a single tile simulating".

In Claim 16, line 3, after "providing a first tile shape" inserted --without a simulation interface channel--.

In Claim 16, line 11, after "tile shape" inserted --while in said mold--.

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In Claim 19, lines 1-2, replaced "roof structure by use of a tile mold" with --plurality of tiles--.

In Claim 19, line 5, after "supporting surface" inserted --when later installed--.

In Claim 19, line 12, after "tile shape" inserted --while in said mold--.

In Claim 28, line 1, replaced "roof structure by use of" with --a tile using--.

In Claim 28, line 5, after "supporting surface" inserted --when later installed--.

In Claim 28, line 9, after "tile shape" inserted --while in said mold--.

In Claim 28, line 11, replaced "have" with --has--.

In Claim 31, line 1, replaced "roof structure by use of" with --a tile using--.

In Claim 31, line 5, after "supporting surface" inserted --when later installed--.

In Claim 31, line 9, after "cap portion" inserted --while in said mold--.

In Claim 31, line 12, replaced "have" with --has--.

***Claim Rejections - 35 USC § 103***

4. Rejections set forth previously under this section are withdrawn.

***Allowable Subject Matter***

5. Claim 13, 15-17, 19-31 are allowed.

6. The following is an examiner's statement of reasons for allowance:

The prior art does not teach or fairly suggest the claimed subject matter as recited in amended Claims 13, 15, 16, 19, 28, and 31.

Claims 13, 15, 19, 28, and 31 each require providing a tile shape using a tile mold, the tile shape having a single, generally "S"-shaped transverse cross section and comprising a cap and pan portion, a particular breakage channel configuration, and a step of breaking the tile. Wotherspoon (USPN 3349534) and Schwarz (USPN 1619490) are the closest prior art of record. However, Wotherspoon teaches that the tiles are formed by extrusion (1:30-31) but does not specifically teach a mold. Wotherspoon also does not teach or fairly suggest the claimed breakage channels or breakage channel configurations, and teaches away from breakage of the tiles by teaching that it is an object of the invention to provide a one-piece tile having integrally joined concave and convex sections (1:22-25). Schwarz does not teach or fairly suggest a single, generally "S"-shaped transverse cross section comprising a cap and pan portion, or the particular breakage channel configurations now claimed.

Claim 16 requires providing a first tile shape without a simulation interface channel by use of a said tile mold and a first slipper, and providing a second tile shape having a simulation interface channel that lies within a plane that is skewed relative to a vertical plane while the tile is in the mold, the simulation interface channel being configured to facilitate breakage. Wotherspoon (USPN 3349534) and Schwarz (USPN 1619490) are the closest prior art of record. However, Wotherspoon teaches that the tiles are formed by extrusion (1:30-31), but does not specifically teach a mold. Wotherspoon also does not teach or fairly suggest the claimed simulation interface channels, or forming first and second tile shapes with first and second slippers, respectively. Schwarz does not teach or fairly suggest a single, generally "S"-shaped transverse cross section comprising a cap and pan portion, the particular breakage channel

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configurations now claimed, or forming a first and second tile shapes with first and second slippers, respectively.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 10/19/07



CHRISTINA JOHNSON  
SUPERVISORY PATENT EXAMINER